IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 7283 of 2004

Between:

P.A.Vijaya Kumar S/o Late P.Devadanam
D.No.49-27-13, Madhuranagar
Visakhapatnam -530016

..... PETITIONER

AND

Municipal Corporation of Visakhapatnam
Rep by its Commissioner Visakhapathnam

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, or any other appropriate writ, order or direction, declaring the proposed action of the respondent in demolishing the structures in respect of building D.No.49-27-13, Covered under SY.No.32, measuring 450 sq yards in plot No.7 of L.P.No.44/61 at Madhuranagar, Visakhapatnam, as illegal, arbitrary and violative of the principles of natural justice and further directing the respondents to not to proceed with the demolition of structure D.No. 49-27-13 , covered under Sy.No.32, measuring 450 sq.yards in Plot No.7 of LP.No.44/61 at Madhuranagar, Visakhapatnam.

For the Petitioner : MR.CH.DHANAMJAYA

For the Respondent: MR.T.S.VENKATA RAMANA,
S.C. FOR MUNICIPAL CORPORATION OF VISAKHAPATNAM.

The Court Made the Following :

ORDER:

The present writ petition is filed questioning the proposed action of the respondent in demolishing the structures in respect of building D No.49-27-13, in Survey No.32, Madhuranagar, Visakapatnam.

The petitioner claims that the he is absolute owner and possessor of H No. D.No.49-27-13, Survey No. 32, Madhuranagar, Visakapatnam and that the said property devolved to him from his father through registered will dated 24-11-1977. It is stated that he has constructed
9 flats therein and has paid Rs.1600/- (20 % of penal amount)
on 9-9-1998 and made an application in form "A" seeking regularisation of the said construction under Building Regularisation Scheme. Consequent thereof, the petitioner received a letter of final Endorsement in Form "B" directing him to pay Rs.3500/- towards 80% penal amount. Thereafter the petitioner constructed 10th flat in the ground floor and made an application for regularisation, however, no orders were passed on the said application. It is stated that on 12-4-2004 the officials of respondent corporation visited the subject construction and recorded the measurements of the same. The petitioner apprehend that respondent officials may proceed to demolish the said 10th flat, regularisation of which is pending consideration under Building Regularisation Scheme.

Heard learned counsel for petitioner and learned Standing Counsel for respondent corporation. Both counsel stated that the petitioner has made certain constructions deviating the sanctioned plan and thereafter made application for regularisation of the same under Building Regularisation Scheme, which is pending consideration before the respondent corporation.

Learned Standing Counsel for respondent corporation submitted that the Government has delegated powers to the corporation to examine the applications filed under Building Regularisation scheme and to pass appropriate orders thereon. It is also stated that as on date there is no threat of demolition and the case of the petitioner would be considered in accordance with law and necessary action, if any, would be initiated against the petitioner only after following due process of law.

In view of the above statement of the learned Standing Counsel, I see no reason to interfere in the matter. In the event of rejection of representation of the petitioner under B.R.S, the respondent authorities are at liberty to take action in accordance with the order that may be passed by them on the representation of the petitioner.

Subject to above observation, the writ petition is dismissed. No costs.

ASSISTANT REGISTRAR

//True copy//

SECTION OFFICER

To

1. The Commissioner, Municipal Corporation of Visakhapatnam, Visakhapathnam.
2. 2 C.D Copies.